

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Drew Murphy	Team: Squad #10	CCRB Case #: 202207435	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/10/2022 12:02 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 3/10/2024	Precinct: 67		
Date/Time CV Reported Wed, 11/02/2022 3:37 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 11/02/2022 3:37 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Justin Colon	24431	967013	067 PCT
2. PO Piotr Tandek	15984	966878	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Yanilka Victoriano	00807	947579	067 PCT
2. PO Nicholas Harripersad	21329	965172	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Justin Colon	Abuse: Police Officer Justin Colon entered § 87(2)(b)	§ 87(2)(b)
B. PO Piotr Tandek	Abuse: Police Officer Piotr Tandek entered § 87(2)(b)	§ 87(2)(b)
C. PO Justin Colon	Abuse: Police Officer Justin Colon searched § 87(2)(b)	§ 87(2)(b)
D. PO Piotr Tandek	Abuse: Police Officer Piotr Tandek searched § 87(2)(b)	§ 87(2)(b)
E. PO Piotr Tandek	Abuse: Police Officer Piotr Tandek threatened to arrest § 87(2)(b)	§ 87(2)(b)
F. PO Piotr Tandek	Abuse: Police Officer Piotr Tandek threatened to arrest § 87(2)(b)	§ 87(2)(b)
G. PO Justin Colon	Abuse: Police Officer Justin Colon threatened to arrest § 87(2)(b)	§ 87(2)(b)
H. PO Justin Colon	Abuse: Police Officer Justin Colon forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
I. PO Piotr Tandek	Abuse: Police Officer Piotr Tandek forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
J. PO Piotr Tandek	Force: Police Officer Piotr Tandek used physical force against § 87(2)(b)	§ 87(2)(b)
K. PO Justin Colon	Force: Police Officer Justin Colon used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
L.P.O Piotr TandeK	Force: Police Officer Piotr TandeK used physical force against § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On October 4, 2022, § 87(2)(b) filed this complaint on behalf of herself and her cousin, § 87(2)(b) with the CCRB in person while providing a statement regarding CCRB § 87(2)(b).

On September 10, 2022, at approximately 12:02pm, Police Officer Justin Colon and Police Officer Piotr Tandek, both of the 67th Precinct, responded to § 87(2)(b) in Brooklyn in response to a 911 call, in which § 87(2)(b) complained he had been illegally evicted from his home. PO Colon and PO Tandek found § 87(2)(b) and his friend in the lobby of § 87(2)(b). After § 87(2)(b) showed PO Colon and PO Tandek proof of residence, PO Colon and PO Tandek knocked on the apartment door. § 87(2)(b) opened the door. PO Colon and PO Tandek entered the apartment followed by § 87(2)(b) and his friend (**Allegations A and B: Abuse of Authority—Entry of Premises**, § 87(2)(g)). PO Colon and PO Tandek then walked through the apartment into open bedrooms and bathrooms (**Allegation C and D: Abuse of Authority—Search of Premises**, § 87(2)(g)). § 87(2)(b) returned home to find PO Colon and PO Tandek in her apartment, along with § 87(2)(b) and his friend. She became very upset and fell to the ground, yelling for the officers to call her an ambulance. PO Colon called for an ambulance. While waiting for the ambulance, Sergeant Yanilka Victoriano and Police Officer Nicholas Harripersad, both of the 67th Precinct, arrived at the scene. While § 87(2)(b) was on the ground, PO Tandek told § 87(2)(b) and § 87(2)(b) that if she removed § 87(2)(b) property from the apartment again, they would both be arrested (**Allegation E: Abuse of Authority—Threat of Arrest**, § 87(2)(g)) and (**Allegation F: Abuse of Authority—Threat of Arrest**, § 87(2)(g)). PO Colon reiterated to § 87(2)(b) that if she changed the locks or removed § 87(2)(b) property again, she would be arrested (**Allegation G: Abuse of Authority—Threat of Arrest**, § 87(2)(g)). PO Tandek prepared § 87(2)(b) a criminal summons for illegal eviction and as he gave it to her, he told her that if she evicted § 87(2)(b) again, she would be arrested (**Subsumed under Allegation F**).

EMS arrived at the scene and took § 87(2)(b) sugar and blood pressure. The EMTs told her that she had to go to the hospital. PO Tandek and PO Colon reiterated this when § 87(2)(b) told them that she would not go (**Allegations H and I: Abuse of Authority—Forcible Removal to the Hospital**, § 87(2)(g)). § 87(2)(b) stood up to use the restroom and PO Tandek allegedly pushed her in her chest (**Allegation J: Force—Physical Force**, § 87(2)(g)). PO Colon and PO Tandek then grabbed § 87(2)(b) arms and placed her into handcuffs (**Allegations K and L: Force—Physical Force**, § 87(2)(g)). The superintendent of the building, § 87(2)(b) stood in the lobby and watched as § 87(2)(b) was escorted, in handcuffs outside into an ambulance.

§ 87(2)(g), § 87(4-b)

§ 87(2)(b) was issued a C-Summons for illegal eviction. No additional summonses or arrests resulted from this incident (**BR 33**).

Body-worn camera footage was obtained from PO Colon, PO Tandek, Sgt. Victoriano, and Harripersad (**BR 01-12**), the relevant portions of which will be discussed below. There was no additional video footage of the incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Justin Colon entered § 87(2)(b).

Allegation (B) Abuse of Authority: Police Officer Piotr Tandek entered § 87(2)(b).

Allegation (C) Abuse of Authority: Police Officer Justin Colon searched § 87(2)(b).

§ 87(2)(b)
Allegation (D) Abuse of Authority: Police Officer Piotr Tandek searched § 87(2)(b)

§ 87(2)(b) stated (BR 13) that beginning in January of 2022, she allowed § 87(2)(b) to keep some of his things in her apartment as storage. § 87(2)(b) who was the leaseholder of the apartment, never allowed § 87(2)(b) to stay in her apartment and never accepted any money from § 87(2)(b). On September 7, 2022, she asked the superintendent of her building, § 87(2)(b) to change the locks on her door so that § 87(2)(b) who she had told could not use her apartment for storage any longer, could not get in. On September 10, 2022, § 87(2)(b) was on the fourth floor of § 87(2)(b) visiting her friend when she heard people banging on a door from the first floor. § 87(2)(b) went down to the first floor of the building and saw PO Colon and PO Tandek knocking on her door. § 87(2)(b) and one of his friends was also with them. § 87(2)(b) cousin, § 87(2)(b) who was living in her apartment at the time, opened the door to the apartment. PO Tandek demanded that § 87(2)(b) hand over a key to the apartment. Before § 87(2)(b) responded, PO Tandek, PO Colon, and § 87(2)(b) stepped into the apartment.

§ 87(2)(b) stated (BR 14) that for six or seven months leading up to September 10, 2022, § 87(2)(b) kept things in plastic boxes inside § 87(2)(b) however, he did not live there. § 87(2)(b) regularly went to the apartment to take things out of the apartment and then left again. A couple of days before September 10, 2022, § 87(2)(b) changed the cylinder on § 87(2)(b) lock.

§ 87(2)(b) was not present in the lobby at the time officers entered § 87(2)(b) apartment during this incident, but sometime later, he stood outside of the apartment while § 87(2)(b) was inside with PO Colon and PO Tandek.

§ 87(2)(b) stated (BR 15) that he returned to § 87(2)(b) where he lived, to find that § 87(2)(b) had placed all of his property in the lobby of the building and locked him out of the apartment. § 87(2)(b) called 911. PO Colon and PO Tandek responded to the 911 call. They asked § 87(2)(b) to provide some proof that he lived in the apartment. He did not have a photographic ID, so he showed them a letter that was addressed to him at § 87(2)(b). § 87(2)(b) came into the lobby. PO Colon and PO Tandek told § 87(2)(b) to open the door to § 87(2)(b) and give § 87(2)(b) a new key. § 87(2)(b) fell to the floor and began to yell about her sugar levels before opening the door.

The investigation was unable to obtain a statement from § 87(2)(b).

PO Colon stated (BR 16) that he and PO Tandek went to § 87(2)(b) in response to a 911 job for a “past illegal eviction.” When PO Colon and PO Tandek arrived, they observed about 15 boxes in the corner of the lobby and met § 87(2)(b) and his friend, who acted as a translator for the former. § 87(2)(b) told PO Colon that he had lived in § 87(2)(b) for four months and showed PO Colon a money order that was made out to § 87(2)(b) on August 1, 2022, and an item of mail, the specifics of which PO Colon could not recall. § 87(2)(b) demonstrated that his key did not work for the apartment door. PO Colon and PO Tandek knocked on the door and § 87(2)(b) opened the door. § 87(2)(b) told the officers that there was nobody else in the apartment. PO Colon and PO Tandek asked § 87(2)(b) if they could take a look in the apartment. § 87(2)(b) did not respond, and PO Colon could not recall if § 87(2)(b) made any physical gesture indicating that the officers could go inside. PO Colon, PO Tandek, and § 87(2)(b) walked into the apartment. There was no emergency; however, he walked into the apartment because he wanted § 87(2)(b) to show him his room to verify that he lived there, he wanted to talk to § 87(2)(b) to explain to her the illegality of her actions, and he wanted to be sure that the apartment was safe for § 87(2)(b) although PO Colon added that he could not recall § 87(2)(b) ever voicing that he felt unsafe in the apartment. PO Colon walked through the apartment to see if anyone else was present. PO Colon looked into open rooms, knocked on a closed door and then tried to open the door but found it to be locked, and opened

another closed door to find a bathroom. PO Colon looked into these rooms to see if § 87(2)(b) was in the apartment and also for the safety of the officers and the civilians in the apartment.

PO Tandek stated (**BR 17**) that he and PO Colon arrived at § 87(2)(b) in response to a 911 call regarding an illegal eviction. As PO Tandek arrived in the lobby of the building, he and PO Colon met with § 87(2)(b). § 87(2)(b) pointed to a bunch of property in the corner of the lobby and told PO Tandek and PO Colon that the landlord, § 87(2)(b) had removed all of § 87(2)(b) things from the apartment and changed the locks so that § 87(2)(b) could not get into the apartment. PO Tandek and PO Colon asked § 87(2)(b) to provide some verification that he lived in the apartment. § 87(2)(b) showed PO Tandek some mail that showed he lived there for at least six months; however, PO Tandek could not recall the details of the item of mail. § 87(2)(b) also showed PO Tandek a money order for the apartment. § 87(2)(b) told PO Tandek that he had been paying for the room in cash and then when he tried to pay with a money order, § 87(2)(b) was not happy and evicted him. PO Tandek and PO Colon knocked on § 87(2)(b) and § 87(2)(b) opened the door. PO Tandek and PO Colon entered the apartment. PO Tandek stated that he entered the apartment because he believed that § 87(2)(b) was inside, and he intended to arrest her for illegal eviction. PO Tandek and PO Colon asked § 87(2)(b) if anyone else was in the apartment as they entered, and § 87(2)(b) appeared hesitant to answer, which made PO Tandek believe that § 87(2)(b) was present. PO Tandek added that neither § 87(2)(b) nor anyone else ever told PO Tandek or PO Colon that they could not enter the apartment. PO Tandek explained that, upon entering the apartment, there was a common area with a kitchen on the right, a living room and § 87(2)(b) bedroom on the left, and then a hallway further beyond the communal space. § 87(2)(b) opened the door to his bedroom and PO Tandek stepped into it. PO Tandek also stepped into a living room, but he could not recall if he stepped into any other rooms. He told the investigation that he did not step into the hallway beyond the communal area.

In PO Colon's first excerpt of BWC (**BR 01-02**), at the 5:06 timestamp, § 87(2)(b) friend hands PO Colon a slip of paper, the details of which are not visible in the frame. § 87(2)(b) friend refers to it as a money order and states, "She refused to accept the payment, because she wants cash." PO Colon looks at the money order and says, "He did it on the first of August." At the 8:36 timestamp, § 87(2)(b) pulls paper out of his pocket. PO Colon says, "Is this mail?" and looks at it. The details of the mail are not visible to the camera, but § 87(2)(b) points to the front of it and says, "This is my address for my home." PO Colon says, "And this was dated back to last month." PO Tandek's first excerpt of BWC is generally consistent with PO Colon's BWC (**BR 03-04**).

In PO Colon's second excerpt of BWC (**BR 05-06**), at the 2:22 timestamp, § 87(2)(b) opens the door to the apartment. § 87(2)(b) steps backwards, pushes the door slightly closed, and does not say anything. PO Colon and PO Tandek both walk into the apartment while saying, "How are you doing?" PO Colon asks § 87(2)(b) if anyone else is in the house and § 87(2)(b) says that nobody is there. § 87(2)(b) says, "The lady just went out." PO Colon says that he will take a look. He walks into the hallway beyond the common area, attempts to open a locked door, then continues to walk further into the apartment. He knocks on another closed door and then opens it to find a bathroom. At the 3:22 timestamp, PO Colon turns around and PO Tandek has followed him to this back hallway. PO Colon continues further into the apartment, walking into an open bedroom. PO Tandek also steps into this bedroom. At the 3:48 timestamp, PO Colon and PO Tandek go back to the communal space near the front door to find that § 87(2)(b) has arrived. PO Tandek's second excerpt of BWC is generally consistent with PO Colon's BWC (**BR 07-08**).

Per Payton v. New York, 445 US 573 (**BR 18**), the warrantless entry of a man's house in order to arrest him is unreasonable in the absence of some one of a number of well-defined exigent circumstances, including hot pursuit, emergencies, certain dangerous situations, and consent.

Per People v. Rodriguez, 77 A.D.3d 280 (**BR 19**), officers may only enter a house without a warrant if there are reasonable grounds to believe that there was an emergency at hand and an

immediate need for their assistance for the protection of life or property, and, if there is some reasonable basis, approximating probable cause, to associate that emergency with the area or place to be searched.

Per Legal Bureau Bulletin Vol. 49 No. 3 (BR 20), it is NYPD policy not to physically assist an occupant in gaining entry to the dwelling unit. Accordingly, police officers should not attempt to break into the dwelling unit in order to allow a tenant to re-enter.

PO Colon and PO Tandek entered the apartment because they hoped to find § 87(2)(b). PO Colon wanted to talk to her, and PO Tandek wanted to arrest her. Given the fact that neither PO Tandek nor PO Colon were given any permission to enter and search the apartment, they could not articulate any immediate or specific safety concerns, and, because § 87(2)(b) told them that § 87(2)(b) was not in the apartment, § 87(2)(g).

Allegation (E) Abuse of Authority: Police Officer Piotr Tandek threatened to arrest § 87(2)(b).

Allegation (F) Abuse of Authority: Police Officer Piotr Tandek threatened to arrest § 87(2)(b).

Allegation (G) Abuse of Authority: Police Officer Justin Colon threatened to arrest § 87(2)(b).

§ 87(2)(b) stated (BR 13) that PO Tandek told her to sit down on a couch in the apartment and she complied. PO Tandek asked § 87(2)(b) and § 87(2)(b) to give him a key to the apartment. PO Tandek told them that if one of them did not give him a key to the apartment, he would take them both to jail. § 87(2)(b) told PO Tandek that she did not have a key to the apartment on her, but § 87(2)(b) said that he did, and he handed one to PO Tandek. PO Tandek handed the key to § 87(2)(b) and told him to go get a copy made. While § 87(2)(b) went to get a copy, PO Tandek prepared a Criminal Court Appearance Ticket. When he handed the C-Summons to § 87(2)(b) he told her not to change the lock again, or she would be arrested.

§ 87(2)(b) stated (BR 14) that for six or seven months leading up to September 10, 2022, § 87(2)(b) kept things in plastic boxes inside § 87(2)(b) however, he did not live there. § 87(2)(b) stood outside § 87(2)(b) while PO Tandek and PO Colon were inside with § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) stated (BR 15) that PO Tandek and PO Colon issued § 87(2)(b) a ticket, but he did not state whether either of them threatened to arrest her or § 87(2)(b).

The investigation was unable to obtain a statement from § 87(2)(b).

PO Tandek stated (BR 17) that he and PO Colon told § 87(2)(b) that she could not evict § 87(2)(b) without going to landlord-tenant court. PO Tandek told § 87(2)(b) and § 87(2)(b) “If you or you take the stuff out again, you’re going to be arrested.” PO Tandek said this as a way of warning both § 87(2)(b) and § 87(2)(b) that it was a crime to illegally evict § 87(2)(b). He further wanted § 87(2)(b) to know that it was illegal for him to assist in an illegal eviction. PO Tandek had concluded that somebody helped § 87(2)(b) take § 87(2)(b) property out of the apartment, but he could not recall why or how he came to this conclusion, or furthermore, how he concluded that § 87(2)(b) assisted in this.

In PO Colon’s second excerpt of BWC (BR 05-06), at the 9:59 timestamp, PO Tandek points at § 87(2)(b) and says, “If you...” and then points at § 87(2)(b) on the ground, “Or you, take the stuff out and I have to come back here, you’re getting arrested. Both of you.” At the 10:22 timestamp, PO Colon says to § 87(2)(b) “If you change the lock, or take his stuff out of this apartment again, you’re going to jail.” At the 16:50 timestamp, PO Tandek issues § 87(2)(b) a summons for changing the locks illegally on her tenant. PO Tandek tells § 87(2)(b) “You change

the locks on him one more time, you're getting arrested." PO TandeK's second excerpt of BWC is generally consistent with PO Colon's BWC (BR 07-08).

PO Colon stated (BR 16) that he had no independent recollection of threatening to arrest § 87(2)(b) or anyone else, however, after viewing the BWC footage described above, he indicated that he told § 87(2)(b) that she could be arrested as a warning that she could be arrested for illegal eviction, because PO TandeK and PO Colon decided to write her a summons this time. PO Colon stated that § 87(2)(b) was § 87(2)(b) friend who lived on the fourth floor.

Administrative Code 26-521 (BR 21) states that it shall be unlawful for any person to evict or attempt to evict an occupant of a dwelling who has lawfully occupied the dwelling unit for 30 consecutive days or longer by engaging or threatening to engage in any conduct which prevents or is intended to prevent such occupant from the lawful occupancy of such dwelling unit or to induce the occupant to vacate the dwelling unit including, but not limited to, removing the occupant's possessions from the dwelling unit, removing the door at the entrance to the dwelling unit; removing, plugging, or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying the occupant with a key.

Patrol Guide procedure 214-12 (BR 22) instructs officers, in cases regarding illegal evictions, to prepare a summons when the violator is properly identified, and the occupant is permitted to reenter the dwelling and to effect an arrest when the violator cannot be properly identified or refuses to permit the occupant to reenter or who through physical obstruction prevents the occupant from reentering.

PO TandeK warned § 87(2)(b) that if he took § 87(2)(b) property out of the apartment again, he would be arrested. Although illegal eviction is arrestable offense, PO TandeK could not recall how or why he believed that § 87(2)(b) had assisted § 87(2)(b) in evicting § 87(2)(b). § 87(2)(b) presence in the apartment did not imply that he assisted in any illegal eviction, and absent PO TandeK articulating a reason for suspecting § 87(2)(b) of committing this illegal action, § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) used § 87(2)(b) for storage, but that he never lived in § 87(2)(b) apartment; however, § 87(2)(b) provided the officers some evidence that he lived there, and it was undisputed that § 87(2)(b) changed the lock to the apartment. § 87(2)(g)

Allegation (H) Abuse of Authority: Police Officer Justin Colon forcibly removed § 87(2)(b) to the hospital.

Allegation (I) Abuse of Authority: Police Officer Piotr TandeK forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(b) stated (BR 13) that she told PO TandeK and PO Colon that she was not feeling well, and they called for an ambulance. Two EMTs arrived and assessed § 87(2)(b) blood pressure and sugar levels. They determined that her blood pressure and sugar levels were both a little bit high, and the EMTs asked § 87(2)(b) if she wanted to go to the hospital. She told the EMTs that she did not need to go to the hospital and indicated that she just needed to take her medication. PO TandeK yelled at § 87(2)(b) that she needed to go to the hospital. PO TandeK and PO Colon placed § 87(2)(b) into handcuffs and took her to the hospital.

§ 87(2)(b) stated (BR 14) that he had left the lobby by the time § 87(2)(b) was taken to the hospital and did not witness it.

§ 87(2)(b) stated (BR 15) that shortly after § 87(2)(b) was confronted by PO TandeK and PO Colon, she dropped to the floor and began to scream about her sugar levels. PO TandeK and PO Colon asked § 87(2)(b) to calm down, but she continued to scream and did not get

up from the floor. PO Tandek and PO Colon handcuffed § 87(2)(b) and called an ambulance for her.

The investigation was unable to obtain a statement from § 87(2)(b).

PO Colon stated (**BR 16**) that § 87(2)(b) threw herself to the floor and requested EMS. PO Colon called for EMS to respond to the scene. About ten minutes later, two EMTs arrived at the apartment. § 87(2)(b) got up from the floor and sat on a chair. The EMTs took § 87(2)(b) blood pressure and her sugar. The EMTs determined that both the blood pressure and the sugar levels were too high, and that § 87(2)(b) would need to go to the hospital. PO Colon and PO Tandek both reiterated the EMTs message to § 87(2)(b) and told her that she had to go to the hospital. § 87(2)(b) refused to go to the hospital, so PO Colon and PO Tandek placed § 87(2)(b) into handcuffs to take her to the hospital.

PO Tandek stated (**BR 17**) that § 87(2)(b) fell to the floor as he prepared the C-Summons. She began to scream that PO Tandek and PO Colon pushed her off the chair, however, neither of the officers made any physical contact with her. § 87(2)(b) continued to scream, but PO Tandek could not understand anything she said. PO Tandek and PO Colon asked § 87(2)(b) if she needed or wanted any medical attention, but she did not respond to this. Either PO Tandek or PO Colon called for an ambulance. Two EMTs reported to the apartment. § 87(2)(b) sat on the chair and the EMTs took § 87(2)(b) blood pressure and sugar. The EMTs determined that the sugar levels were too high, at about 200. The EMTs told § 87(2)(b) that she had to go to the hospital. § 87(2)(b) told the EMTs, PO Tandek, and PO Colon, that she did not want to go to the hospital. PO Tandek told § 87(2)(b) that she had to go to the hospital once EMS personnel deemed it necessary. When § 87(2)(b) continued to refuse to go, PO Tandek and PO Colon handcuffed § 87(2)(b) and escorted her out of her apartment.

In PO Colon's second excerpt of BWC (**BR 05-06**) at the 6:30 timestamp, § 87(2)(b) falls from a chair to the floor and begins to scream, "Call 911! Call the ambulance for me!" PO Colon walks out of the room and calls for an ambulance over the radio. At the 28:52 timestamp, the EMT holds § 87(2)(b) hand and says, "I'm taking your sugar." At the 29:20 timestamp, the EMT says, "Alright, that sugar is way too high for me to leave you here." At the 30:00 timestamp, the EMT holds up a blood pressure monitor and says, "If this is high also, if you don't want to go, I have to call my doctor and tell him you don't want to go and you have to talk to my doctor because I can't leave you here. Your sugar is 371, that is way too high for us to leave someone." The EMT measures § 87(2)(b) blood pressure and then at the 31:25 timestamp, the EMT says, "I'm reading over 100." At the 31:30 timestamp, § 87(2)(b) says, "If this man is staying in my apartment, I am going to drop dead. I'm not going nowhere, let me die." PO Tandek's second excerpt of BWC is generally consistent with PO Colon's BWC (**BR 07-08**).

According to the Pre-Hospital Care Report (**BR 23**) when EMTs arrived at the scene, § 87(2)(b) was screaming and stated that she was not herself, and police on scene told them that § 87(2)(b) was being aggressive. § 87(2)(b) wanted the EMTs to take her vitals. § 87(2)(b) blood pressure was elevated, and her sugar was 371. PO Tandek and PO Colon stated that § 87(2)(b) was not in the right state of mind, so they handcuffed her and escorted her to the ambulance.

§ 87(2)(b) medical records from § 87(2)(b) note that § 87(2)(b) was concerned her blood pressure was high and did not feel well, but she did not want to come to the hospital. She stated NYPD hand cuffed her and brought her to the emergency department for evaluation. § 87(2)(b) complained of pain to left wrist where the handcuff was placed.

It is undisputed that § 87(2)(b) asked PO Colon and PO Tandek to call an ambulance for her and when EMS arrived, one of the EMTs took her sugar and determined that it was 371. § 87(2)(b) stated that the EMTs asked if she wanted to go to the hospital, but she opted not to go. PO Tandek, PO Colon, and BWC consistently conveyed that one of the EMTs took § 87(2)(b) sugar and stated that it was too high for them to leave § 87(2)(b) at the apartment.

Patrol Guide Procedure 216-01 (**BR 25**) states that officers shall cooperate with ambulance

and hospital personnel in every reasonable manner.

§ 87(2)(g)

Allegation (J) Force: Police Officer Piotr TandeK used physical force against § 87(2)(b)

Allegation (K) Force: Police Officer Justin Colon used physical force against § 87(2)(b)

Allegation (L) Force: Police Officer Piotr TandeK used physical force against § 87(2)(b)

§ 87(2)(b) stated (BR 13) that in the midst of arguing with PO TandeK and PO Colon about whether § 87(2)(b) needed to go to the hospital, § 87(2)(b) told them that she needed to go to the restroom. She stood up and PO TandeK pushed § 87(2)(b) chest, forcing § 87(2)(b) backwards so that her back contacted the wall. PO TandeK and PO Colon then grabbed § 87(2)(b) on her sides and placed her hands in handcuffs behind her back.

§ 87(2)(b) stated (BR 14) that he had left the lobby by the time § 87(2)(b) was taken to the hospital and did not witness this.

§ 87(2)(b) 15) stated that PO TandeK and PO Colon placed § 87(2)(b) into handcuffs, but he did not specify whether the officers did this forcefully or whether § 87(2)(b) resisted at all.

PO Colon stated (BR 16) that § 87(2)(b) continually stated that she did not want to go to the hospital and tried to walk away from him and PO TandeK. PO Colon and PO TandeK placed § 87(2)(b) into handcuffs to stop her from getting away and to get her to go with EMS. § 87(2)(b) initially jerked her arms away from the officers to refrain from being handcuffed, but she then complied, and allowed PO Colon and PO TandeK to handcuff her. PO Colon had no recollection of seeing PO TandeK push § 87(2)(b) on her chest against the wall. PO Colon did not recall ever pushing § 87(2)(b) himself, either.

PO TandeK stated (BR 17) that after the EMTs told § 87(2)(b) that she had to go to the hospital, § 87(2)(b) stood up with PO Colon on her left side and PO TandeK on her right side. PO TandeK could not recall if § 87(2)(b) stood of her own accord or if he and PO Colon helped her stand up. Once she stood up, PO TandeK and PO Colon placed her into handcuffs. § 87(2)(b) was generally compliant with being handcuffed. § 87(2)(b) did not flail her arms or resist. PO TandeK had no recollection of pushing § 87(2)(b) chest against the wall, nor of seeing PO Colon pushing § 87(2)(b) chest. PO TandeK stated that he did not recall making any physical contact with § 87(2)(b) aside from putting her in handcuffs.

In PO Colon's second excerpt of BWC (BR 05-06) at the 31:44 timestamp, § 87(2)(b) says, "Let me die," stands up, and walks past PO TandeK toward other side of the apartment. § 87(2)(b) arrives in front of PO Colon, who grabs § 87(2)(b) left bicep with his right hand, saying, "You're not going nowhere." At the 31:52 timestamp, § 87(2)(b) moves her right arm forward out of the grasp of PO TandeK. At the 31:55 timestamp, PO TandeK grabs § 87(2)(b) right forearm and brings it around behind her. At the 31:59 timestamp, PO Colon takes out his handcuffs and tries to handcuff her left wrist, as she lifts it forward. At the 32:04 timestamp, PO Colon regains control of her wrist, placing the handcuff on it, and then handcuffs the right wrist as PO TandeK holds her right bicep. PO TandeK's second excerpt of BWC is generally consistent with PO Colon's BWC (BR 07-08). At no point in any of the comprehensive and consistent BWC obtained by the investigation does PO TandeK push § 87(2)(b) on the chest, forcing her into the wall behind her (BR 01-12).

Patrol Guide procedure 221-01 (BR 26) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody. In determining whether the use of force is reasonable, members of the service should consider the following: 1) The nature and severity of the crime/circumstances. 2) Actions taken by the subject. 3) Duration of the action. 4) Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders. 5) Whether the

subject is actively resisting custody. 6) Whether the subject is attempting to evade arrest by flight. 7) Number of subjects in comparison to the number of MOS. 8) Size, age, and condition of the subject in comparison to the MOS. 9) Subject's violent history, if known. 10) Presence of hostile crowd or agitators. 11) Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

§ 87(2)(g) comprehensive and consistent BWC footage does not show PO Tandek push § 87(2)(b) in the chest or elsewhere, § 87(2)(g)

It was undisputed that § 87(2)(b) stood up and attempted to walk past PO Tandek to go further into the apartment as the officers and the EMTs told her that she was required to go to the hospital. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b)
- PO Colon has been a member of service for four years and has been a subject in three CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)
- PO Tandek has been a member of service for four years and has been a subject in two CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 20, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (**BR 30**).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Squad: 10

Investigator:	<u>Drew Murphy</u>	<u>Inv. Drew Murphy</u>	<u>07/17/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Maura R. Roche</u>	<u>IM Maura R. Roche</u>	<u>07/18/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date